

**§ 108A-70.38. Timely processing standards.**

(a) The Department shall require counties to comply with timely processing standards. The timely processing standards are the average processing time standards and the percentage processed timely standards set forth in G.S. 108A-70.39 and G.S. 108A-70.40. The Department shall monitor county department of social services' compliance with these standards in accordance with this Part.

(b) For purposes of this Part, processing time is the number of days between the date of application and the date of disposition of the application, except in cases where an eligibility determination is dependent upon receipt of information related to one or more of the following:

- (1) Medical expenses sufficient to meet a deductible.
- (2) The applicant's need for institutionalization.
- (3) The applicant's plan of care for the home- and community-based waivers.
- (4) The disability decision made by the Disability Determination Services Section of the Division of Vocational Rehabilitation of the Department.
- (5) Medical records needed to determine emergency dates for nonqualified aliens.
- (6) The applicant's application or other information from the federally facilitated marketplace.
- (7) The applicant's application or other information in connection with an application for a Low Income Subsidy for Medicare prescription drug coverage.

In these cases, processing time shall exclude the number of days between the date when the county determines all eligibility criteria other than the criteria in subdivisions (1) through (7) of this subsection and the date when the county receives the information related to the criteria in subdivisions (1) through (7) of this subsection.

(c) Processing times for the following types of cases shall be excluded from the calculation of the average processing time and percent processed timely:

- (1) Newborns who are automatically enrolled based on their mother's eligibility.
- (2) Applications for individuals who are presumptively eligible for Medicaid.
- (3) Active cases in which an individual who is eligible for one program is transferred to another program, regardless of whether the transfer occurs between allowable or nonallowable program categories.
- (4) Cases in which an individual transfers from an open case to another case, including establishing a new administrative case for the individual.
- (5) Actions to post eligibility to a terminated or denied case within one year of the termination or denial.
- (6) Cases that are reopened because they were terminated in error or because reopening of the terminated case is allowed by policy.
- (7) Cases in which the eligibility decision was appealed and the decision was reversed or remanded.

(d) The Department may, in its discretion, exclude days, other than those required by subsection (b) of this section, from the calculation of processing time under this section if the Department determines that the delay was caused by circumstances outside the control of county departments of social services. The Department also may, in its discretion, exclude types of cases, other than those described in subsection (c) of this section, from the calculation of processing time. When the Department exercises its discretion pursuant to this subsection, the Department's determination regarding circumstances outside the control of county departments of social services and the Department's decision to exclude types of cases shall be applied uniformly to all county departments of social services. (2016-94, s. 12H.17(b).)